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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/669,404

09/24/2003

Viacheslav A. Petrov

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11/03/2006

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
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WILMINGTON, DE 19805

EXAMINER

KEYS, ROSALYND ANN

ART UNIT

PAPER NUMBER

1621

DATE MAILED: 11/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/669,404	PETROV, VIACHESLAV A.	
	Examiner	Art Unit	
	Rosalynd Keys	1621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Status of Claims

1. Claims 1-8 are pending.
Claims 1-8 are rejected.
Claim 9 is canceled.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Sanechika et al. (US 5,547,593) in view of JP 02227285 A), for the reasons given in the previous office action, mailed March 15, 2006.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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6. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Poetsch et al. (US 5,348,677) for the reasons given in the previous office action, mailed March 15, 2006.

Double Patenting

7. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

8. Claims 1-4 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claim 15 of copending Application No. 10/669,403. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Response to Arguments

Rejection of claims 1-5 under 35 U.S.C. 102(b) as being anticipated by Sanechika et al. (US 5,547,593) in view of JP 02227285 A)

9. Applicant's arguments filed August 15, 2006 have been fully considered but they are not persuasive.

The Applicants argue that it is not proper to combine references in a rejection based upon 102(b). This argument is not persuasive. Normally, only one reference should be used in making a rejection under 35 U.S.C. 102.

However, a 35 U.S.C. 102 rejection over multiple references has been held to be proper when the extra references are cited to:

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- (A) Prove the primary reference contains an "enabled disclosure; "
- (B) Explain the meaning of a term used in the primary reference; or
- (C) Show that a characteristic not disclosed in the reference is inherent.

In the instant case the second reference is used to show that the styrene oligomer disclosed in Sanechika et al. is a known buffer layer material. This characteristic is not disclosed in Sanechika et al. Thus, a second reference, in particular JP 02227285 A, is used to show the buffer layer characteristic of the styrene oligomer.

The Applicants argue that there is no teaching or suggestion in Sanechika of a solution comprising the compound and an organic active material. The Examiner disagrees. Sanechika et al. teach compounds which have the claimed formula (see for example the compounds in column 43 wherein R is a alkyl group and Rf is a fluoroalkyl or fluoroalkenyl. Compound (B) as taught by Sanechika et al. includes at least one compound, which falls within the Applicants, claimed organic active material. For example Sanechika et al. teach styrene oligomer (see column 35, lines 10-16). Styrene oligomer is a known buffer layer material (see Derwent abstract of JP 02227285 A). Thus, the Examiner believes that the claimed solutions are taught by Sanechika et al. in view of JP 02227285 A.

For the above reasons this rejection is maintained.

Rejection of claims 1-8 under 35 U.S.C. 103(a) as being unpatentable over Poetsch et al. (US 5,348,677)

10. Applicant's arguments filed August 15, 2006 have been fully considered but they are not persuasive because the claims are directed to a solution, a compound, and an organic electronic device. The fact that Poetsch et al.

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device may contain an LCD component is irrelevant, since the claims are not limited to an OLED. With respect to the substituent m, as recognized by the Applicants m can be o. The Applicants arguments with regard to the utility of the compounds of Poetsch et al. being different is irrelevant, since the claims are not directed to a utility but to a product, i.e., a solution, compound or organic electronic device, which the Examiner believes is suggested by Poetsch et al.

For the above reasons this rejection is maintained.

Provisional Rejection of claims 1-4 under 35 U.S.C. 101 as claiming the same invention as that of claim 15 of copending Application No. 10/669,403

11. Applicant's arguments filed August 15, 2006 have been fully considered but they are not persuasive because the Examiner believes that a solution is a composition. Further, the argument is not persuasive because the Rf of the instant claims and claim 15 of copending Application No. 10/669,403 overlap and when the R substituent is present in the '403 application the subject matter is the same as the instant invention.

For the above reason this rejection is maintained.

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee

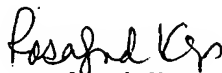
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pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rosalynd Keys whose telephone number is 571-272-0639. The examiner can normally be reached on M-W & F 5:30-8:30 am & 1-5 pm; Th 5:30 am-5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page can be reached on 571-272-0602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Rosalynd Keys
Primary Examiner
Art Unit 1621

October 30, 2006